IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 35 of 2004
(Under Section 173 of the Motor Vehicles Act, 1988)

District : Udham Singh Nagar.

Regional Manager,
Uttar Pradesh State Road Transport Corporation,
Through its Regional manager, Nainital.
…….Appellant.

Versus

1. Smt. Devki s/o Late Anand Singh.
2. Sri Dinesh Singh s/o Sri Anand Singh,
3. Sri Lalit Singh, s/o late Sri Anand Singh.

……Respondents**.**

For Appellant: Sri A.N. Sharma,
For respdts: Sri KS Bora & Sri KS Rana.

September 20, 2004.

Hon'ble P.C.Verma, J.,
Hon'ble B.S. Verma, J.

The M.A.C. Tribunal/District Judge, Udham Singh Nagar per his award dated 21.11.2003 passed in M.A.C. No.200 of 2003 Smt. Devki Devi and 2 others vs. U.P. state Road Transport Cororation, ordered a compensation o f Rs.5,66,008/- being paid to the claimants for the death of Sri Anand Singh, aged 48 years, earning Rs.5327/- per month by serving in the railway department. He as hit by the UPSRTC bus No.UP-02B/1702 when he was standing on kuchcha road alongwith his wife and a bicycle in village Jhankat, PS Khatima on 10.7.2002. The report of this accident was lodged at PS Khatima, The petitioner has claimed a compensation of Rs. 13,08,620/- in all.

The UPSRTC in its reply stated that the bus was being driven at a very low speed and when it reached near Maida Milla, a pedestrian in a bid to cross the road in haste collided with the running bus for he himself is responsible and the claimants are not entitled to any compensation. On the pleadings of the parties, learned Tribunal framed 3 necessary issues. The claimants produced Smt. Devki Devi

and Sri Ram Sanehi, eye witnesses of the accident, and produced certified copies of F.I.R., post mortem report, chargesheet against the driver of the bus and salary slip of the deceased, while the driver of the bus, Sukhdev Singh, was examined in defence. Learned Tribunal on a consideration of evidence before it, found the bus driver guilty of rash and negligent driving and rejected the defence story and awarded the compensation aforesaid to the claimants. The learned Tribunal while assessing the compensation, after deducting one-third amount of yearly dependency, applied a multiplier of 13 and added some general damages to it.

The appellant aggrieved against this award has preferred this appeal o n the ground that the monthly income of the deceased was Rs.4665/- per month while the Tribunal has assumed it to be Rs.5327/-, the interest rate is higher and the multiplier of 13 was wrongly applied by the learned Tribunal. Responsibility for accident was also tried to be shifted to the deceased.

We have heard the learned counsel for appellant and have perused the record of the case. The rash and negligent act of the driver of offending bus is proved by the statements of eye witnesses Devki and Sohan Singh as well as copy of F.I.R. It is important that the F.I.R. was lodged in this case by the son of the deceased. Had the story narrated by the defence been true, the bus driver would have certainly been the first person to report the matter. We, therefore, find no force in the argument raised in this behalf that the accident did not take place due to rash and negligent driving of the bus. So far as the argument raised about the salary of the deceased is concerned, there is paper No.25Ga/2 computerised pay-slip of the deceased which shows that he was getting Rs.5327/- p.m. Therefore, there is no force in this argument also made on behalf of the learned counsel for the appellant. As regards application of wrong multiplier is concerned, at the age of 48, the multiplier of 13 has rightly been applied by the court below as provided in Second Schedule to S.163 of the Act. We also find that

the accident occurred in 2002 and the interest then prevailing has rightly been awarded by the learned court below. On a consideration of all the pleas raised before us, we find that there is no force in this appeal and it must fail.

The appeal is dismissed. The impugned judgment is upheld. No order as to costs.

The amount in deposit with this Court shallbe remitted to the M.A.C.T. concerned, for being paid to the claimants.

(B .S.Verma, J.) **(P.C. Verma, J.)**

SPA/20.0.04